

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

JOHN HANCOCK LIFE INSURANCE  
COMPANY, JOHN HANCOCK VARIABLE  
LIFE INSURANCE COMPANY, and  
MANULIFE INSURANCE COMPANY (f/k/a  
INVESTORS PARTNER INSURANCE  
COMPANY),

Plaintiffs,

v.

ABBOTT LABORATORIES,

Defendants.

CIVIL ACTION NO. 05-11150-DPW  
Hon. Judge Douglas P. Woodlock

**ABBOTT LABORATORIES' MOTION FOR  
SUMMARY JUDGMENT ON HANCOCK'S RESCISSION CLAIM**

Defendant Abbott Laboratories (“Abbott”) hereby moves, pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1, for summary judgment in favor of Abbott on the rescission claim asserted by Plaintiffs John Hancock Life Insurance Company, John Hancock Variable Life Insurance Company, and Manulife Insurance Company (f/k/a Investors Partner Life Insurance) (collectively, “Hancock”).

Based on the undisputed facts, Abbott is entitled to judgment as a matter of law, on the grounds that: (1) Hancock is judicially estopped from seeking rescission because, after obtaining knowledge of the alleged misrepresentations, it sought and obtained final judgment enforcing and affirming the Agreement; (2) Hancock waived any right to rescission because it waited for years after obtaining knowledge of the alleged misrepresentations before seeking rescission and, in the meantime, took repeated actions affirming the Agreement; and (3) the Agreement includes

a limitation of remedies provision that precludes rescission in the present circumstances.

In support of this motion, Abbott relies upon Abbott's Memorandum in Support of Motion for Summary Judgment on Hancock's Rescission Claim, Abbott's Statement of Undisputed Facts in Support of Its Motion for Summary Judgment on Hancock's Rescission Claim, the Affidavit of Eric J. Lorenzini (and accompanying exhibits), all of which are filed concurrently herewith.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(d), Abbott respectfully requests oral argument on this Motion on the earliest date convenient for the Court. A status conference is presently set for September 20, 2007.

ABBOTT LABORATORIES

By its attorneys

Eric J. Lorenzini

Jeffrey I. Weinberger (Admitted Pro Hac Vice)  
Gregory D. Phillips (Admitted Pro Hac Vice)  
Eric J. Lorenzini (Admitted Pro Hac Vice)  
Ozge Guzelsu (Admitted Pro Hac Vice)  
MUNGER, TOLLES & OLSON LLP  
355 South Grand Avenue, 35th Floor  
Los Angeles, CA 90071  
(213) 683-9100

and

Michael S. D'Orsi  
Peter E. Gelhaar (BBO #188310)  
Michael S. D'Orsi (BBO #566960)  
DONNELLY, CONROY & GELHAAR LLP  
1 Beacon St., 33rd Floor  
Boston, Massachusetts 02108  
(617) 720-2880

Dated: July 20, 2007

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)**

The undersigned hereby certifies that Abbott counsel has conferred with counsel for Hancock and attempted in good faith the resolve or narrow the issues presented by this Motion.

Dated: July 20, 2007

/s/ Michael S. D'Orsi

**CERTIFICATE OF SERVICE**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on July 20, 2007.

Date: July 20, 2007

/s/ Michael S. D'Orsi